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Haddad Decl., ¶ 13.

Haddad Decl., ¶ 14.

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     Attorneys for Defendant and Counter-Plaintiff
     ConocoPhillips Company
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                              UNITED STATES DISTRICT COURT
11
                           NORTHERN DISTRICT OF CALIFORNIA
12
     HOUTAN PETROLEUM, INC.
                                               Case No. 3:07-cv-5627
13
                     Plaintiff.
                                               DEFENDANT CONOCOPHILLIPS'
                                               COMPANY'S OBJECTIONS TO
14
                                               EVIDENCE SUBMITTED BY PLAINTIFF
          VS.
                                               IN OPPOSITION TO MOTION FOR
15
     CONOCOPHILLIPS COMPANY, a Texas
                                               SUMMARY JUDGMENT
     corporation and DOES 1 through 10,
16
     Inclusive
                                               Date:
                                                            May 9, 2008
                                               Time:
                                                            10:00 a.m.
17
                     Defendants.
                                               Courtroom:
                                               Before:
                                                            Hon. Samuel Conti
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19
           Defendant and Counter-Plaintiff ConocoPhillips Company ("ConocoPhillips") submits
20
    the following objections to evidence submitted by Plaintiff Houtan Petroleum, Inc. ("Houtan"),
    in support of its opposition to ConocoPhillips' motion for summary judgment on Houtan's
21
22
    Complaint.
23
                EVIDENCE
                                                         OBJECTION(S)
24
    Declaration of Ed Haddad (submitted
                                         Best evidence rule.
    as Ex. 1 to Plaintiff's Request for
25
    Judicial Notice (Docket No. 98) and
    referred to herein as "Haddad Decl."), ¶
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Irrelevant.

Irrelevant; lacks foundation.

	II II ID 1 SELECT	
1	Haddad Decl., ¶¶ 15-16.	Irrelevant; lacks foundation; speculation;
	Hodded Deel Off 17 10	argumentative.
2	Haddad Decl., ¶¶ 17-19.	Irrelevant; argumentative.
3	Haddad Decl., ¶¶ 21-24.	Irrelevant; lacks foundation; speculation;
5	Haddad Daal 99 25 27	argumentative.
4	Haddad Decl., ¶¶ 25-27. Exs. B, D and E to Haddad Decl.	Irrelevant; lacks foundation; argumentative.
,n	Exs. B-E to the Declaration of Thomas	Irrelevant.
5	P. Bleau (submitted as Ex. 2 to	Irrelevant; lacks foundation and authenticating
6	Plaintiff's Request for Judicial Notice	testimony. Plaintiff relies on these documents
	(Docket No. 98) and referred to herein	apparently to support its argument that ConocoPhillips
7	as "Bleau Decl.").	had adequate notice of the expiration of its underlying property lease, such that it was able to provide notice
0	as Break Been.).	of franchise termination to Houtan that was timely
8		under the PMPA. As shown in ConocoPhillips'
9	2 2 7	moving and reply papers, however, ConocoPhillips
	T.	did provide timely notice, more than 90 days prior to
10	:	termination, in the franchise agreement itself. These
4 4		exhibits are therefore irrelevant to any truly disputed
11		factual issue. Moreover, the documents are not
12		authenticated. Mr. Bleau cannot authenticate
12		correspondence between a ConocoPhillips agent and a
13	<i>y</i>	third-party. That ConocoPhillips produced these
4.4		documents in discovery does not obviate competent
14	¥	authenticating testimony. See, e.g., Orr v. Bank of
15		America, 285 F.3d 764, 777 (9th Cir. 2002).
13	Ex. F to Bleau Decl.	Irrelevant; lacks foundation; speculation;
16	1,	argumentative.
17	Declaration of Andrew C. Plaine	Irrelevant, immaterial. The Plaine declaration
17	(submitted as Ex. 3 to Plaintiff's	purports to establish the value of ConocoPhillips'
18	Request for Judicial Notice (Docket	equipment and improvements at the subject service
	No. 98) and referred to herein as	station. However, ConocoPhillips' motion for
19	"Plaine Decl."), in its entirety.	summary judgment addresses only the propriety of
20		ConocoPhillips' termination of Plaintiff's franchise,
20		and whether Plaintiff timely requested, and was
21		therefore legally entitled to, a bona fide offer to
	e*	purchase ConocoPhillips' equipment and
22		improvements. The value of such property is wholly
22		immaterial to the threshold question of whether
23		Plaintiff had a right under the PMPA to an offer to
24	Plaina Deal maga 1 lines 22 22	purchase the property.
	Plaine Decl., page 1, lines 22-23.	Lacks foundation. Mr. Plaine's conclusory assertion
25	*:	that he has "substantial experience in appraising
0.	ν.	gasoline station properties, which I am qualified to
26	Plaine Deal mage 1 lines 27 20 - 1	do" is unsupported by adequate foundation.
27	Plaine Decl., page 1, lines 27-28 and page 2, lines 1-20.	Lacks foundation. Mr. Plaine fails to set forth any
	page 2, IIIIOS 1-20.	basis for his opinion regarding the value of
28		ConocoPhillips' equipment and improvements, but

1	rather provides only a conclusory assertion of value.
	The declaration fails even to recite the research,
2	standards and/or methodology used by Mr. Plaine to reach the value he opines.
3	January 11, 2008 Minute Order Irrelevant, immaterial. This Order has no relevance to
4	(submitted as Exhibit 4 to Plaintiff's the instant motion. The Court's denial of
4	Request for Judicial Notice (Docket ConocoPhillips' motion to dismiss did not reflect a
5	No. 98) and referred to herein as the "Order"). substantive disposition of the motion, but rather the Court's inclination to set the matter for trial on an
6	"Order"). Court's inclination to set the matter for trial on an expedited basis.
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8	Dated: May 5, 2008
9	GLYNN & FINLEY, LLP
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	Ву
11	Attorneys for Defendant and Counter-Plaintiff ConocoPhillips
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